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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JANE DOE, an individual,

Plaintiff,

vs.

CLIFFORD HARRIS, an individual  
PKA TI, TAMEKA HARRIS, an  
individual PKA Tiny, DOES 1-20, ABC  
Corp. 1-20, and 123 Corp. 1-20  
inclusive,

Defendants.

Case No: 2:24-cv-02604-SPG-JC

**PLAINTIFF'S NOTICE OF  
OPPOSITION AND OPPOSITION  
TO THE DEFENDANTS' MOTION  
TO DISMISS PLAINTIFF'S FIRST  
AMENDED COMPLAINT; FILED  
CONCURRENTLY WITH MOTION  
TO STRIKE; DECLARATION OF  
RODNEY S. DIGGS**

Date: October 16, 2024

Time: 1:30 p.m.

Dept.: 5C, First Street Courthouse

Plaintiff JANE DOE ("Plaintiff") hereby submits her Opposition to  
Defendants CLIFFORD HARRIS PKA TI and TAMEKA HARRIS PKA TINY  
("Defendants") Motion to Dismiss Plaintiff's First Amended Complaint and  
Request to Strike Defendants' Motion to Dismiss Plaintiff's First Amended  
Complaint.

This Opposition shall be based upon this Notice, the file and records of the  
within action, the attached Memorandum of Points and Authorities, and any such

1 additional oral and documentary evidence as may be submitted at the hearing of  
2 this matter.

3  
4 Dated: October 9, 2024

**IVIE McNEILL WYATT PURCELL & DIGGS**

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7 **By: /s/ Rodney S. Diggs**  
8 **RODNEY S. DIGGS, ESQ.**  
9 Attorney for Plaintiff,  
10 **JANE DOE**  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiff is a United States Air Force veteran. For many years, Plaintiff selflessly devoted her life to protecting the freedoms and the values that make up the fabric of what the Citizens of the United States believe in. Unfortunately for Plaintiff, a weekend off base to attend an event that was put on by Grand Hustle Records, the employer of Clifford and Tameka Harris, resulted in her being drugged and raped by the Harris Defendants.

On January 2, 2024, Plaintiff filed her Complaint in this action. Plaintiff on two separate occasions agreed to stipulate to allow Defendants to file a responsive pleading (Dkts. 26-27). On June 27, 2024 the Defendant filed a Motion to Dismiss the Plaintiff's Complaint. [Dkt.29]. The Motion to Dismiss argued, among other things, that Plaintiff's Complaint must be dismissed for failure to state a claim. In lieu of filing an Opposition, Plaintiff filed a First Amended Complaint.

On June 20, 2024, Plaintiff met and conferred with the defendant's counsel and shared her intention to file this amended complaint in lieu of filing an opposition to their motion to dismiss. The Parties represented their intent to try to informally resolve some of the issues raised by Defendants that they submitted would be subject to a Motion to Dismiss. The Parties did not exchange any further communication before the filing of Defendants' Motion to Dismiss. On July 17, 2024, the day Plaintiff's Opposition to the Motion to Dismiss would otherwise be due, Defendants expressed that they would not be amendable to stipulating for Plaintiff to file an amended complaint. This was particularly in bad faith since Plaintiff allowed Defendants extensive time and submit their Motion.

**1. Bad-Faith Meet and Confer Efforts that Did Not Put Plaintiff on Notice of the Motion to Dismiss the First Amended Complaint**

In a further show of bad-faith, Defendants' Counsel sent a meet and confer

1 correspondence only to Attorney Rodney Diggs on September 4<sup>th</sup> and 6<sup>th</sup>, 2024. In  
2 all other correspondences, Ms. Cameron-Banks cc'd Attorney Tyrone Blackburn  
3 and Provisionally Licensed Lawyer Tyrine Aman as well as Attorney Diggs' Legal  
4 Secretaries. Ms. Although Mr. Diggs is the primary attorney on the matter,  
5 Defendants' Counsel was fully aware that Attorney Tyrone Blackburn and  
6 Provisionally Licensed Lawyer Tyrine Aman were assisted Mr. Diggs in meet and  
7 confer efforts. Glaringly, Ms. Cameron-Banks only spoke to Ms. Aman and Mr.  
8 Blackburn when the Parties originally met and conferred for the original complaint.  
9 Ms. Cameron-Banks and Mr. Diggs have never spoken on the phone and never  
10 exchanged e-mail correspondence between each other. As such, Ms. Cameron-  
11 Banks intentionally directed her e-mails to Mr. Diggs only in order to circumvent  
12 true good-faith meet and confer efforts. Glaringly, Defendants' Counsel was  
13 required to meet and confer in good faith under LR 7-3.

14 With this, Mr. Diggs never received any of Ms. Cameron-Banks e-mails on  
15 September 4<sup>th</sup> or 6<sup>th</sup>. Ms. Cameron-Banks e-mails went to Mr. Diggs spam folder  
16 because he had never responded to her previously, it was always Tyrone Blackburn  
17 or Tyrine Aman who responded to e-mails from Ms. Cameron-Banks. Further, Ms.  
18 Cameron-Banks should, at the very least, have cc'd Ms. Aman and Mr. Blackburn  
19 on her September 6<sup>th</sup> follow-up e-mail only to Mr. Diggs when she did not receive  
20 any response after September 4<sup>th</sup>.

## 21 **II. LEGAL STANDARDS**

### 22 **1. Standard Under F.R.C.P. 12(b)(6)**

23 Under Rule 12(b)(6), a defendant may move to dismiss for failure to state a  
24 claim upon which relief can be granted. A claim has "facial plausibility" if the  
25 plaintiff pleads facts that "allow the court to draw the reasonable inference that the  
26 defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
27 (2009). It is well-established in the Ninth Circuit that a 12(b)(6) dismissal is  
28

1 disfavored and should only be granted in "extraordinary" cases. *United States v.*  
2 *Redwood City* (9th Cir. 1981) 640 F.2d 963, 966; *Cauchi v. Brown* (E. D. Cal 1991)  
3 51 F.Supp.2d 1014, 1016; *United States v. White* (C.D. Cal, 1995) 893 F.Supp.  
4 1423, 1428; *Gilligan v. Jamco Development Corp.* (9th Cir. 1997) 108 F.3d 246,  
5 249.

6 On a motion to dismiss under Rule 12(b)(6), the court must “accept as true all  
7 of the factual allegations set out in plaintiff’s complaint, draw inferences from those  
8 allegations in the light most favorable to plaintiff, and construe the complaint  
9 liberally.” *Rescuecom Corp. v. Google Inc.* (2nd Cir. 2009) 562 F.3d 123, 127;  
10 *Mediacom Southeast LLC v. BellSouth Telecommunications, Inc.* (6th Cir. 2012)  
11 672 F3d 396, 400; *Doe v. United States* (9th Cir. 2005) 419 F3d 1058, 1062; *Braden*  
12 *v. Wal-Mart Stores, Inc.* (8th Cir. 2009) 588 F.3d 585, 595 (“*Twombly* and *Iqbal* did  
13 not change this fundamental tenet of Rule 12(b)(6) practice”); see also *Barker v.*  
14 *Riverside County Office of Ed.* (9th Cir. 2009) 584 F.3d 821, 824.

15 A complaint is sufficient if it gives the defendant “fair notice of what the ...  
16 claim is and the grounds upon which it rests.” *Bell Atlantic Corp. v. Twombly* (2007)  
17 550 US 544, 555, 127 S.Ct. 1955, 1964 (internal quotes omitted); see *Starr v. Baca*  
18 (9th Cir. 2011) 652 F3d 1202, 1212 (discussing traditional liberal theory of Rule  
19 8(a)). An allegation need only be “simple, concise, and direct. No technical form is  
20 required.” FRCP 8(d)(1). As long as the facts alleged provide “fair notice” of the  
21 claim, a “complaint need not identify the statutory or constitutional source of the  
22 claim raised in order to survive a motion to dismiss.” *Alvarez v. Hill* (9th Cir. 2008)  
23 518 F.3d 1152, 1157; *Homoki v. Conversion Services, Inc.* (5th Cir. 2013) 717 F.3d  
24 388, 402; *Hatmaker v. Memorial Med. Ctr.* (7th Cir. 2010) 619 F.3d 741, 743].

25 Further, “magic words,” specific phrases or legal labels characterizing the  
26 claim (i.e., “price discrimination” or “declaratory judgment”) are not required, so  
27 long as sufficient facts are alleged to put defendant on notice of the claim. *Stevenson*  
28



1 v. City of Seat Pleasant, Md. (4th Cir. 2014) 743 F.3d 411, 418; Kirkpatrick v.  
2 County of Washoe (9th Cir. 2016) 843 F.3d 784, 790 (en banc). It is not even  
3 necessary to specify the precise nature of the claim asserted as long as the facts  
4 alleged put defendant on notice thereof. Self Directed Placement Corp. v. Control  
5 Data Corp. (9th Cir. 1990) 908 F.2d 462, 466. Further, “Prolivity is ... a poor ground  
6 for rejecting potentially meritorious claims”; Hearn v. San Bernardino Police Dept.  
7 (9th Cir. 2008) 530 F.3d 1124, 1131 (“verbosity or length is not by itself a basis for  
8 dismissing a complaint”). Here, Plaintiff has stated claims upon which relief can be  
9 granted for each cause of action and Defendants’ Motion to Dismiss should be  
10 denied in its entirety.

## 11 **2. Federal Standard on Leave to Amend**

12 “A party may amend its pleading with the opposing party’s consent or the  
13 court’s leave.” Fed. R. Civ. P. 15(a)(2). Federal Rule of Civil Procedure 15 mandates  
14 that leave to amend “be freely given when justice so requires.” Fed. R. Civ. P. 15(a).  
15 “This policy is to be applied with extreme liberality.” Eminence Capital, LLC v.  
16 Aspeon, Inc., 316 F.3d 1048, 1051 (9th Cir. 2003).

17 In determining whether to allow an amendment, a court considers the four  
18 Foman factors: Whether there is (a) undue delay; (b) bad faith; (c) undue prejudice  
19 to the opposing party; or (d) futility of amendment. See Foman v. Davis, 371 U.S.  
20 178, 182 (1962). “Not all of the [Foman] factors merit equal weight. . . . [I]t is the  
21 consideration of prejudice to the opposing party that carries the greatest weight.”  
22 Eminence Capital, 316 F.3d at 1052. “Absent prejudice, or a strong showing of any  
23 of the remaining Foman factors, there exists a presumption under Rule 15(a) in favor  
24 of granting leave to amend.” Id. (emphasis in original) (quoting Lawrey v. Tex. A &  
25 M Univ. Sys., 117 F.3d 242, 245 (5th Cir. 1997)). “Where the plaintiff offers to  
26 provide ‘additional evidence’ that would add ‘necessary details’ to an amended  
27 complaint and such offer is made in good faith, leave to amend should be granted.”  
28

1 McMullen v. Fluor Corp., 81 F. App'x 197, 199 (9th Cir. 2003) citing Broudo v.  
2 Dura Pharm., 339 F.3d 933, 941 (9th Cir. 2003).

3 Thus, Plaintiff respectfully requests the Court freely grant Plaintiff leave to  
4 amend her original First Amended Complaint because justice supports Plaintiff be  
5 given the opportunity to correct and amend her Complaint to avoid a potentially fatal  
6 result resulting from an adverse ruling on Defendant's Motion to Dismiss. Further,  
7 there is no prejudice to Defendants because the case is still in its infancy and no trial  
8 date is imminent.

9 **III. ARGUMENT**

10 **1. The Applicable Statute of Limitations Does NOT Bar this Lawsuit,**  
11 **the Complaint, and All Claims Asserted Therein**

12 California expanded the statute of limitations for certain sexual assault cases;  
13 CCP § 340.16(a) was amended in 2022 to add subdivision (b)(3). This amendment  
14 provided that civil actions that were otherwise time-barred after the enactment of  
15 CCP § 340.16 (a) could be revived if the alleged sexual assault occurred on or after  
16 January 1, 2009, and a lawsuit was filed before December 31, 2026. See CCP §  
17 340.16 (b)(3). The 2022 amendment applies to this lawsuit based on conduct that  
18 occurred in 2005. The California legislature afforded survivors of sexual assault  
19 whose assault occurred before 2009 one year to file suit if an entity or its agents  
20 covered up the sexual assault. In the relevant part, CCP § 340.16(e) provides a one-  
21 year window in 2023 for actions against entities for their agents for the attempted  
22 cover-up of sexual assault actions:

23 “(e) (1) Notwithstanding any other law, any claim seeking to recover damages  
24 suffered as a result of a sexual assault that occurred on or after the Plaintiff's  
25 18th birthday that would otherwise be barred before January 1, 2023, solely  
26 because the applicable statute of limitations has or had expired, is at this  
27 moment revived, and a cause of action may proceed if already pending in court  
28

1 on January 1, 2023, or, if not filed by that date, may be commenced between  
2 January 1, 2023, and December 31, 2023.

3 (2) This subdivision revives claims brought by a plaintiff who alleges all of  
4 the following:

5 (A) The Plaintiff was sexually assaulted.

6 (B) One or more entities are legally responsible for damages arising out of the  
7 sexual assault.

8 (C) The entity or entities, including, but not limited to, their officers, directors,  
9 representatives, employees, or agents, engaged in a cover-up or attempted a  
10 cover-up of a previous instance or allegations of sexual assault by an alleged  
11 perpetrator of such abuse.

12 (3) Failure to allege a cover-up as required by subparagraph (C) of paragraph  
13 (2) regarding one entity does not affect the revival of the Plaintiff's claim or  
14 claims against any other entity.

15 (4) For purposes of this subdivision:

16 (A) "Cover up" means a concerted **effort to hide evidence** relating to a sexual  
17 assault that incentivizes individuals to remain silent or prevents information  
18 relating to a sexual assault from becoming public or being disclosed to the  
19 Plaintiff, including, but not limited to, the use of nondisclosure agreements or  
20 confidentiality agreements.

21 (B) "Entity" means **a sole proprietorship, partnership, limited liability**  
22 **company, corporation, association, or other legal entity.**

23 (C) "Legally responsible" means that the entity or entities are liable under any  
24 theory of liability established by statute or common law, including, but not  
25 limited to, negligence, intentional torts, and vicarious liability.

26 (5) **This subdivision revives any related claims**, including, but not limited  
27 to, wrongful termination and sexual harassment, **arising out of the sexual**  
28

1 **assault** that is the basis for a claim pursuant to this subdivision.”

2 Upon the Court's approval of Plaintiff's request to file an amended complaint,  
3 Plaintiff will provide additional details and sworn witness affidavits, which will  
4 satisfy the requirements of CCP § 340.16(e). Firstly, the morning after Plaintiff was  
5 assaulted, she was awakened by the Defendant employee, who she believed was the  
6 defendant's security as he openly and prominently displayed his gun. When Plaintiff  
7 was awakened, she had a robe or towel thrown over her as she slept on the couch.  
8 The Plaintiff did not have the ability to collect all her belongings as the defendant's  
9 employee demanded that she leave the room before the defendant woke up.  
10 According to the Defendant employee, the defendant instructed him to clear the  
11 room first thing in the morning and to ensure there was no one present when they  
12 woke up.

13 The Plaintiff was not wearing any underwear and could not locate her  
14 clothing. She asked the defendant's employee to allow her to search the room for  
15 her belongings, and he said no. The Plaintiff was only allowed to leave in the robe  
16 and with her phone. Her underwear and her clothing, with the DNA evidence of the  
17 Defendants, were left behind. The defendant's employee provided the Plaintiff with  
18 different clothing. Plaintiff believes this act by the Defendants agent was routine  
19 and intentional. It's as if the Defendants had trained him to confiscate the used  
20 clothing of their sexual assault victims to cover up and or clean up the evidence of  
21 their criminal acts.

22 Secondly, the Plaintiff's amended Complaint will detail the fact that the  
23 Defendant agent and or employee, Caviar ("Doe"), recruited the Plaintiff and her  
24 friend (Jane Doe 1) to attend a party that the Defendants, through their employer's  
25 Grand Hustle Records a subsidiary of Atlantic Records, hosted in a club in Los  
26 Angeles. The Plaintiff will name Grand Hustle Records, Atlantic Records, and  
27 Grand Hustle Records CEO Jason Geter as defendants in her amended Complaint.  
28

1 Mr. Geter was Clifford Harris's manager at the time of the assault, was present at  
2 the club, and coerced Plaintiff not to report the assault.

3 The Defendants committed an overt act when they sent their agent, Caviar, to  
4 solicit Plaintiff and Jane Doe 1 to attend an event where they intended to drug and  
5 sexually assault them. While Defendants were sexually assaulting Plaintiff in their  
6 hotel bedroom, their agent Caviar, brutally raped Jane Doe 1 on the bathroom floor  
7 in the hotel lobby. Out of respect for Jane Doe 1's privacy and giving her the right  
8 to tell her story whenever she's comfortable, we will not provide the graphic details  
9 of the sexual assault that the Defendant agent visited upon her.

10 Within days of being sexually assaulted by the defendants, Plaintiff  
11 complained to Defendants manager and employer, Mr. Geter, whom she was  
12 introduced to through a friend of Plaintiff. She asked for help because she needed  
13 to know what the defendants had done to her. Days and weeks after being raped, the  
14 Plaintiff suffered from vagina irritation. Mr. Geter warned the Plaintiff not to make  
15 a big deal of this because the defendants were wealthy, well-connected, powerful,  
16 and dangerous. It was a well-known fact at the time that Defendant Clifford Harris  
17 was a convicted felon who served time in federal prison for gun possession and other  
18 serious violent crimes<sup>1</sup>. In fact, when Mr. Harris violently raped Plaintiff, he was  
19 on probation.

20 Mr. Geter warned the Plaintiff that nobody would believe her, and she does  
21 not have any DNA evidence to prove that they sexually assaulted her. Mr. Geter  
22 warned Plaintiff her military service might be jeopardized if it gets out that she  
23 "allowed" herself to be in the predicament that resulted in her being raped.

24 On or about 2008, Plaintiff confronted Defendant Tameka Harris on Facebook  
25

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26 <sup>1</sup> In 1994, Defendant Clifford Harris was arrested for dealing drugs. In March 2004, a warrant was issued for T.I.'s  
27 arrest after he violated his probation of a 1997 drug conviction, as well as a 1998 conviction for violating a state  
28 controlled substances act and for giving false information. He was sentenced to three years in prison. In May 2004,  
he was released on probation. After being released, he earned a litany of probation violations in several counties  
around Georgia for offenses ranging from possession of a firearm to possession of marijuana.

1 Messenger regarding the sexual assault she suffered in 2005. Defendant Tameka  
2 Harris disregarded Plaintiff's claims and refused to atone for the harm that she and  
3 her husband caused Plaintiff to suffer. Based on information and belief, Defendant  
4 Tameka Harris was an employee of Grand Hustle Records, working as a songwriter  
5 and producer for the company. Upon information and belief, Tameka Harris co-  
6 wrote a 2004 Grand Hustle Records song, "Can I walk By."

7 Finally, Defendants had a pattern and practice of engaging in this behavior as  
8 their employees and agents conspired to cover up the Defendants' rape of Plaintiff  
9 by confiscating her clothes and threatening her not to make a big deal of the assault  
10 due to the Defendants' criminal history and their contacts and connections.

11 **2. Plaintiff Sets Forth Allegations That Establish Cognizable Claims for**  
12 **Relief Against Defendants**

13 The fact that defendants are attempting to cherry-pick sentences from Plaintiff  
14 pleading to justify raping her is appalling, disgusting, and true to form. It is settled  
15 law in California, and in every civilized jurisdiction absent the warped minds of the  
16 defendants, that no means no, and if a person is forced into an unwanted sexual  
17 encounter after saying no, then that's rape. In *State v. Robinson* (Me. 1985) 496 A.2d  
18 1067, the court addressed the identical issue we face today. There, the jury also  
19 questioned whether initial consent to sexual intercourse forecloses a finding of rape.  
20 The court held that the trial court correctly instructed the jury that rape is committed  
21 if the sexual intercourse is continued only as a result of compulsion. (*Id.* at p.  
22 1070.) The court noted that "[t]he dramatic change from the role of a voluntary  
23 participant to that of a victim compelled involuntarily to submit to the sexual  
24 intercourse is a distinct one." (*Robinson, supra*, at p. 1071.) When a victim is forced  
25 to submit to continued intercourse for a period after she has revoked her original  
26 consent, the crime of rape is committed. *Id.*

27 The *Robinson* court states the better view. We, therefore, decline to  
28

1 follow *Vela*. The *Vela* court focused on "the moment of penetration as the crucial  
2 moment of the crime of rape." (*People v. Vela, supra*, 172 Cal. App. 3d at p. 242.)  
3 While it is true that any penetration, however slight, is sufficient to complete the  
4 crime of rape (§ 263), that was not the question presented in *Vela*, nor is it the issue  
5 presented here. *Id.*

6 Although the *Vela* court acknowledged that rape is "nonconsensual sexual  
7 intercourse," citing *People v. Key* (1984) 153 Cal. App. 3d 888, 895 [203 Cal. Rptr.  
8 144]), it failed to apply the statutory language of section 261 to the factual scenario  
9 presented. Section 261, subdivision (a)(2) defines rape as sexual intercourse that is  
10 accomplished against a person's will. Under section 261, rape is necessarily  
11 committed if a victim is forced to continue with sexual intercourse against her will.

12 Here, even if the Court applies *Vela*, Plaintiff was raped. As detailed in the  
13 Plaintiff's pleadings, defendant Clifford Harris inserted his foot into her vagina. That  
14 act is an unsolicited penetration of Plaintiff's private parts and constitutes rape per  
15 se. Defendants also try to claim that Plaintiff's recitation of the facts and claiming  
16 that she was standing, walking, and sitting somehow means that Plaintiff was in  
17 control of her faculties and had the ability to consent. They conveniently missed the  
18 part of the pleading where Plaintiff said she felt woozy after drinking a beverage  
19 provided to her by Tameka Harris and passed out. Anyone with a modicum of  
20 common sense knows that a person cannot consent if they are drugged.

21 If the court believes that Plaintiff has not plausibly pleaded a claim to satisfy  
22 a cognizable claim for relief, Plaintiff respectfully requests you leave to amend.

23 **3. Plaintiff States a Claim for Battery, Sexual Battery, and Assault**

24 The essential elements of a cause of action for battery are: (1) the defendant  
25 touched Plaintiff, or caused Plaintiff to be touched, with the intent to harm or offend  
26 Plaintiff; (2) plaintiff did not consent to the touching; (3) plaintiff was harmed or  
27 offended by defendant's conduct; and (4) a reasonable person in Plaintiff's position  
28



would have been offended by the touching." *So v. Shin*, 212 Cal. App. 4th 652, 669, 151 Cal. Rptr. 3d 257 (2013), *as modified on denial of reh'g* (January 28, 2013) (emphasis added). Here, the Amended Complaint alleges, in no uncertain terms, that Defendants "caused [Ebert] to be touched." This assertion is supported by a plethora of factual allegations; Ebert details the ways in which Defendants played a role in orchestrating the attack on his person. *Ebert v. Cty. of San Bernardino*, No. 5:21-cv-02075-JWH-SHK, 2023 U.S. Dist. LEXIS 103768 (C.D. Cal. June 14, 2023).

**a. Sexual Battery Under California Civil Code Section 1708.5**

The Plaintiff also asserts claims for sexual battery under California Civil Code section 1708.5. To state a claim under section 1708.5, Plaintiffs must allege that Defendant: 1. Act[ed] with the intent to cause a harmful or offensive contact with an intimate part of another, and a sexually offensive contact with that person directly or indirectly results[; or] 2. Act[ed] with the intent to cause a harmful or offensive contact with another by use of his or her intimate part, and a sexually offensive contact with that person directly or indirectly results[; or] 3. Act[ed] to cause an imminent apprehension of the conduct described in paragraph (1) or (2), and a sexually offensive contact with that person directly or indirectly results. Cal. Civ. Code § 1708.5. *Doe v. Fitzgerald*, No. CV 20-10713-MWF (RAOx), 2022 U.S. Dist. LEXIS 8194 (C.D. Cal. January 6, 2022).

Here, Plaintiff clearly satisfies the elements of Assault, Battery, and Sexual Battery. Even with the Defendants cherry-picking of Plaintiff's pleading, they still fail to show that their clients did not assault, batter, and sexually batter Plaintiff. If the court believes that Plaintiff has not plausibly pleaded a claim for Assault, Battery, and Sexual Battery, Plaintiff respectfully requests leave to amend.

**4. Plaintiff States a Claim for False Imprisonment**

A false imprisonment claim requires (1) nonconsensual, intentional confinement of a person, (2) without lawful privilege, and (3) for an appreciable



1 period of time, however brief. *Bocanegra v. Jakubowski*, 241 Cal. App. 4th 848, 855,  
2 194 Cal. Rptr. 3d 327 (2015).

3 Here, after Plaintiff said no, Defendant Tameka Harris continued to sit on  
4 Plaintiff's back, holding Her down until she passed out, which constituted false  
5 imprisonment. If the court believes that the Plaintiff has not plausibly pleaded a  
6 claim for False Imprisonment, the Plaintiff respectfully requests leave to amend.

7 **5. Plaintiff States a Claim for Negligence and Intentional Infliction of**  
8 **Emotional Distress**

9 With regard to the tort of intentional infliction of emotional distress, "[t]he  
10 three required elements are: *first*, the conduct by the defendant must be 'extreme' and  
11 'outrageous'; *second*, the defendant must either intend to cause emotional distress or  
12 recklessly disregard the near certainty that such distress will result from his conduct;  
13 and *third*, severe emotional distress must indeed occur as a result of the defendant's  
14 conduct." *Ford v. Revlon, Inc.*, 153 Ariz. 38, 734 P.2d 580, 585 (Ariz. 1987)(italics  
15 in original). "Whether the conduct is 'extreme and outrageous' enough to state a  
16 claim of relief is a question for the court." *Id.* (citing *Cluff v. Farmers Ins. Exchange*,  
17 10 Ariz. App. 560, 460 P.2d 666, 668 (Ariz. Ct. App. 1969)). "A sexual assault ...  
18 is deeply 'offensive to human dignity.'" *Schwenk v. Hartford*, 204 F.3d 1187, 1197  
19 (9th Cir. 2000) (citing *Farmer v. Brennan*, 511 U.S. 825, 834, 114 S. Ct. 1970, 128  
20 L. Ed. 2d 811 (1994)).

21 Thus, Defendant's abusive sexual contact against Plaintiff was extreme and  
22 outrageous, and they violated Plaintiff's basic human and constitutional rights. As a  
23 result of his actions, the Plaintiff suffered and continues to suffer severe and  
24 permanent injuries, mental anguish, embarrassment, humiliation, distress, and  
25 damages. If the court believes that the Plaintiff has not plausibly pleaded a claim  
26 for negligence and intentional infliction of emotional distress, the Plaintiff  
27 respectfully requests leave to amend.

1        **A. DEFENDANTS’ MOTION IS SUBJECT TO STRIKE AND TO**  
2        **SANCTIONS FOR FAILING TO MEET AND CONFER**

3        Under FRCP 12(f), a Court has the power to strike a motion or pleading.  
4        Further, pursuant to LR 7-3, if an opposing party refuses to participate in good faith,  
5        the moving party shall explain the refusal in detail. Failure by any party to comply  
6        in good faith with the “meet and confer” requirement may result in an order to show  
7        cause re: sanctions—including, as appropriate, striking or denying the motion,  
8        deeming the motion unopposed, and/or awarding monetary sanctions.

9        Here, Ms. Cameron-Banks did not meet and confer in good-faith by only e-  
10       mailing Mr. Diggs, and not even including his Secretaries whom she had always  
11       included previously. Ms. Cameron-Banks knew that she had only met and conferred  
12       with Ms. Aman and Mr. Blackburn, but decided to leave them off the  
13       correspondence to “meet and confer” regarding the FAC. Thus, Plaintiff did not have  
14       a reasonable opportunity to cure any potential deficiencies, and were not put on  
15       proper notice of Defendants’ intent to file an Motion to Dismiss.

16       **B. PLAINTIFF RESPECTFULLY REQUESTS LEAVE TO AMEND**

17       A party may amend its pleading with the opposing party’s consent or the  
18       court’s leave.” Fed. R. Civ. P. 15(a)(2). Federal Rule of Civil Procedure 15 mandates  
19       that leave to amend **“be freely given when justice so requires.”** Fed. R. Civ. P. 15(a).  
20       “This policy is to be applied with extreme liberality.” *Eminence Capital, LLC v.*  
21       *Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003). In determining whether to allow  
22       an amendment, a court considers the four *Foman* factors: Whether there is (a) undue  
23       delay, (b) bad faith, (c) undue prejudice to the opposing party, or (d) futility of  
24       amendment. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). “Not all of the [Foman]  
25       factors merit equal weight. . . . [I]t is the consideration of prejudice to the opposing  
26       party that carries the greatest weight.” *Eminence Capital*, 316 F.3d at 1052. “Absent  
27       prejudice, or a strong showing of any of the remaining *Foman* factors, there exists a  
28

1 presumption under Rule 15(a) in favor of granting leave to amend.” *Id.* (emphasis in  
2 original) (quoting *Lawrey v. Tex. A & M Univ. Sys.*, 117 F.3d 242, 245 (5th Cir.  
3 1997)). “Where the plaintiff offers to provide ‘additional evidence’ that would add  
4 ‘necessary details’ to an amended complaint and such offer is made in good faith,  
5 leave to amend should be granted.” *McMullen v. Fluor Corp.*, 81 F. App’x 197, 199  
6 (9th Cir. 2003) citing *Broudo v. Dura Pharm.*, 339 F.3d 933, 941 (9th Cir. 2003).

7 Here, Plaintiff respectfully requests the Court freely grant the Plaintiff leave  
8 to amend her original Complaint because justice supports Plaintiff be given the  
9 opportunity to correct and amend her Complaint to avoid a potentially fatal result  
10 resulting from an adverse ruling on Defendant’s Motion to Dismiss.

11 **1. Good Cause Exists to Grant Leave to Amend**

12 Here, good cause exists to grant leave to amend because this will be Plaintiff’s  
13 First Leave to Amend and is only being amended to demonstrate that Plaintiff has  
14 additional facts, witness affidavits, and supporting evidence to support the claims  
15 she raised in her pleadings.

16 **2. Plaintiff’s Motion for Leave to Amend is Timely**

17 The Plaintiff’s Motion for Leave is timely because a motion for leave to amend  
18 can be requested at any time. The Plaintiff is moving to amend her Complaint as the  
19 Plaintiff indicated she would do on the face of her pleading.

20 **3. There is No Prejudice to Defendant to Grant Plaintiff’s Request to**  
21 **Amend the Complaint**

22 Here, there is no prejudice to the Defendant for Plaintiff to Amend the  
23 Complaint because the case is still in its infancy, and no trial date has been set.  
24 Moreover, this is the Plaintiff’s first Leave to Amend.

25 **IV. CONCLUSION**

26 For the foregoing reasons, the Plaintiffs respectfully request that this Court  
27 Strike Defendants’ Motion to Dismiss, or in the alternative, Deny Defendants’  
28

1 Motion in full, and grant the Plaintiff's request to amend her Complaint.

2  
3 **Respectfully submitted,**

4  
5 Dated: October 9, 2024

**IVIE McNEILL WYATT PURCELL & DIGGS**

6  
7 **By: /s/ Rodney S. Diggs**  
8 **RODNEY S. DIGGS, ESQ.**  
9 Attorney for Plaintiff,  
10 **JANE DOE**  
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**DECLARATION OF RODNEY DIGGS**

1  
2 1. I am admitted to practice before all the courts of the State of California. I am  
3 familiar with the file in this matter and the contents thereof. The facts stated below  
4 are of my own knowledge, and if called upon to testify, I could and would testify  
5 competently and truthfully thereto.

6 2. I am Counsel of Record for Plaintiff. However, I have Counsel who intends  
7 to appear pro hac vice in this matter, Tyrone Blackburn.

8 3. Mr. Blackburn has had several conversations with Counsel for Defendants,  
9 Ms. Indira Cameron-Banks.

10 4. My associate, Tyrine Aman, has also assisted me with meet and confer efforts  
11 with Ms. Indira Cameron-Banks.

12 5. Defendant filed a Motion to Dismiss, which, among other things, asserted  
13 Plaintiff's claims should be dismissed for failure to state a claim.

14 6. On June 20, 2027, Tyrine Aman and Tyrone Blackburn met and conferred  
15 telephonically with Ms. Cameron-Banks to discuss Plaintiff filing her amended  
16 Complaint. Plaintiff was to provide case law and statutory authority for some of the  
17 issues raised by Defendant's Counsel that Defendants' Counsel indicated she was  
18 intending to otherwise bring on a Motion to Dismiss.

19 7. On June 27, 2024, before receiving anything from Plaintiff's Counsel or ever  
20 following up with Plaintiff's Counsel, Defendants filed a motion to dismiss  
21 Plaintiff's Complaint.

22 8. Plaintiff's Counsel was engaged in a Court trial from the end of June to early  
23 July.

24 9. On July 17, 2024, my office reached out to Counsel for Defendants and  
25 requested a stipulation to amend Plaintiff's Complaint. Defendants' Counsel  
26 refused which was particularly in bad faith since Plaintiff granted and entered into  
27 two Stipulations to time to file a responsive pleading with Defendants.

28 10. On August 28, 2024, pursuant to the Court ruling that Plaintiff may amend

1 her Complaint, Plaintiff filed her First Amended Complaint (Dkt. 37).

2 11. Ms. Cameron-Banks only sent me an e-mail on September 4, 2024 to meet  
3 and confer regarding the FAC.

4 12. I did not see this e-mail because it went to my spam.

5 13. Ms. Cameron Banks-emailed me again on September 6, 2024. It again went  
6 to my spam because I had never e-mailed Ms. Cameron-Banks. Only my associate  
7 Tyrine Aman or Tyrone Blackburn, who is barred in the state of New York and  
8 currently in the process of being admitted pro hac vice in this matter, have  
9 communicated with Ms. Cameron-Banks via e-mail or phone.

10 14. I have never spoken to Ms. Cameron-Banks, thus, the fact that she only sent  
11 emails to me, only, demonstrates bad-faith and her intention of circumventing a  
12 good-faith meet and confer process.

13 15. Ms. Cameron-Banks always cc'd Tyrine Aman and Tyrone Blackburn on all  
14 e-mails prior to her "meet and confer e-mails" to only me following the filing of the  
15 First Amended Complaint.

16 16. Ms. Cameron-Banks has made serious misrepresentations in her Motion to  
17 Dismiss Plaintiff's First Amended Complaint, namely that Tyrine Aman and  
18 Tyrone Blackburn said they were not on the case. I am the primary and handling  
19 attorney, however, it was made very clear to Ms. Cameron-Banks through verbal  
20 representation and through practice that Ms. Aman and Mr. Blackburn were  
21 assisting on the matter.

22 17. Because of this, we were not put on any notice of the Defense's intent to file  
23 a Motion to Dismiss Plaintiff's FAC.

24 18. Because of this, my office missed the e-notification of the Defendant filing  
25 the Motion to Dismiss.

26 19. Plaintiff should not be prejudiced by the unfortunate result of Defendants'  
27 failure to properly meet and confer, in good-faith as required under the federal rules.  
28

20. Plaintiff's case should be decided on the merits.

21. I sincerely apologize to the Court for any inconvenience this may have caused, as it is not the norm or practice of my office to fail to oppose critical motions.

22. The reason my office became privy to Defendants' Motion to Dismiss Plaintiff's FAC is through Defendants' Notice of Non-Opposition filed October 7, 2024.

23. Plaintiff has now filed her Opposition herein, only two days following notice and without delay.

24. Defendants' Motion to Dismiss should be stricken for failure to comply with the Local Rule requirement to meet and confer in good faith.

25. In the Motion to Dismiss is not Stricken, on behalf of Plaintiff my office requests this Opposition be considered in response to Defendants' Motion to Dismiss Plaintiff's FAC.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9<sup>th</sup> day of October, 2024 in Los Angeles, California.

/s/ Rodney S. Diggs  
Rodney S. Diggs, Declarant